

CR-5501-2023

- 1 -

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

132

CR-5501-2023

Decided on : 19.09.2023

Ujjagar Singh

. . . Petitioner(s)

Versus

Chaman Lal

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. B.R. Rana, Advocate for
Mr. J.S. Toor, Advocate
for the petitioner(s).

SANJAY VASHISTH, J. (Oral)

1. Present revision petition has been preferred by the petitioner (sole defendant) – Ujjagar Singh, challenging the impugned order dated 26.04.2023 (P-1), whereby, opportunity to cross-examine the respondent (plaintiff) – Chaman Lal, has been treated as “Nil”. Further challenge has been made to the order dated 03.08.2023 (P-2), whereby, application for recalling the order dated 26.04.2023, has been dismissed.

2. Learned counsel appearing for the petitioner submits that although, it is clear that prior to 26.04.2023, petitioner (defendant) was granted sufficient opportunities to cross-examine the respondent (plaintiff) as witness, and even opportunity was granted twice subject to the payment of cost of Rs.1000/-. But, as a matter of fact, on 26.04.2023, work of the Courts at Kharar & Mohali, was suspended by the Members of the Bar due to the bhog ceremony of mother of one of the Member of the Bar namely; Sh. R.S. Saini, Advocate. Further submits that after attending the Court of Sh. Jagdeep Sood, learned Addl. District Judge, Chandigarh, counsel for the petitioner (defendant) had gone to attend the bhog ceremony of mother of

CR-5501-2023

- 2 -

Sh. R.S. Saini, Advocate.

Thus, learned counsel submits that due to some busy schedule of the counsel representing the petitioner (defendant) before the Trial Court, on earlier occasions, cross-examination of PW - Chaman Lal (plaintiff) could not be conducted. But, it was worth considering for the learned Trial Court to take note of the factum of suspension of work on 26.04.2023, on account of the bhog ceremony of mother of one of the Member of the Bar namely; Sh. R.S. Saini, Advocate.

3. Moreover, there is nothing observed in the impugned order dated 03.08.2023 (P-2) also that why the reason given by the counsel for the defendant has been disbelieved.

4. Be that as it may, learned counsel for the petitioner (defendant) submits that if, one last opportunity is granted to him to cross-examine the PW – Chaman Lal (plaintiff), even subject to the payment of some cost for compensating the respondent (plaintiff) as well as the learned Trial Court, he would be fully satisfied.

5. I have heard learned counsel for the petitioner (defendant) and perused the relevant material on record.

6. For deciding the issue involved in the present revision petition, I do not deem it appropriate to issue notice to the respondent (plaintiff), because, that would further prolong the process of trial pending before the Trial Court. Thus, taking into consideration the totality of circumstances and the request made by learned counsel appearing for the petitioner (defendant) before this Court, I deem it appropriate to grant one last opportunity to the petitioner (defendant) for conducting the cross-examination of PW – Chaman Lal (plaintiff).

This Court is of the view that cross-examining of plaintiff is not

CR-5501-2023

- 3 -

only crucial for uncovering the truth, but also for adhering to the principles of Indian Evidence Act, 1872. Thus, cross-examination of plaintiff is necessary for the proper and just adjudication of the issue involved without causing prejudice to the rights of any of the parties to *lis*.

The view taken by this Court is fortified by the observation made by Hon'ble Justice P.N. Bhagwati in case titled as "**State of Kerala v. K.T. Shaduli Grocery Dealer, (1997) 2 SCC 777**", wherein His Lordship succinctly encapsulated the essence and purpose of cross-examination, which reads as under:

"(...) cross-examination is one of the most efficacious methods of establishing truth and exposing falsehood".

7. Considering the circumstances in its totality, **I hereby deem it appropriate to set-aside the impugned order dated 26.04.2023 (P-1) to the extent of treating the opportunity for cross-examining the PW – Chaman Lal (plaintiff) to be treated as 'nil'.**

Accordingly, PW – Chaman Lal (plaintiff) is directed to appear before the learned Trial Court on 05.10.2023, for submitting himself for cross-examination to be done by the petitioner (defendant). Said date can be changed at the request of the plaintiff – Chaman Lal or as per the convenience of the Trial Court itself, but in any case, said cross-examination of the plaintiff – Chaman Lal, would be recorded and completed by affording one effective opportunity to the petitioner (defendant) and in any case, prior to the next date fixed before it i.e. 20.10.2023.

However, said direction would be subject to the payment of Rs.20,000/- as costs, out of which, Rs.10,000/- would be paid to the plaintiff (respondent herein) before the Trial Court, on or before conducting of the cross-examination by the petitioner (defendant), and

CR-5501-2023

- 4 -

remaining amount of Rs.10,000/- would be deposited with the District
Legal Services Authority, SAS Nagar (Mohali).

8. Petition stands **disposed of** accordingly.

(SANJAY VASHISTH)
JUDGE

September 19, 2023

J.Ram

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No